

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

JOHN WELDON BURNS,

Plaintiff,

v.

Civil Action No. 1:07CV7

DOMINIC A. GUTIERREZ, SUSAN S.  
MCCLINTOCK, DR. RAMIREZ, MS.  
BLANCO, DR. WATERS, LEWIS  
BRESKOACH AND V. FERNANDEZ,

Defendants.

ORDER DENYING MOTION TO DISMISS

On November 7, 2007, this Court denied the plaintiff's motion to dismiss (dkt. no. 30) under Fed. R. Civ. P. 42(b) for failure to state the proper Rule of Civil Procedure. In that Order, the Court advised the plaintiff that, if he re-filed the motion, he should cite the proper Rule of Civil Procedure, specify the type of dismissal requested, and state the grounds for the motion.

On November 14, 2007, the petitioner re-filed the motion under Fed. R. Civ. P. 42(a) (dkt. no. 32). He did not, however, specify the type of dismissal requested or state the grounds for the motion. The Court finds that Fed. R. Civ. P. 42(a) does not apply under these circumstances. Consequently, the Court **DENIES** the motion (dkt. no. 32).

ORDER DENYING MOTION TO DISMISS

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The Court reminds the plaintiff that, if he re-files the motion, he should cite the proper Rule of Civil Procedure, specify the type of dismissal requested, and state the grounds for the motion.

The Clerk is directed to transmit a copy of this Order to the *pro se* plaintiff and appropriate government agencies.

Dated: November 15, 2007

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE